

Personnel

**UNITED STATES TRANSPORTATION COMMAND (USTRANSCOM)
MILITARY EQUAL OPPORTUNITY (MEO) PROGRAM**

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***C1 BY ORDER OF THE DEPUTY COMMANDER**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

OPR: TCJ1-PD (LCDR M. Andrews) Approved by: TCJ1 (CAPT Mary M. Orban, USN)
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This instruction prescribes policies and procedures for the administration of the USTRANSCOM Military Equal Opportunity (MEO) Program. It implements Department of Defense (DOD) Directive (DODD) 1350.2, DOD MEO Program. All personnel assigned or attached for duty with USTRANSCOM headquarters shall comply with the requirements of this directive. Unlawful discrimination or reprisals, as defined herein, are prohibited.

SUMMARY OF REVISIONS

Updates TCJ1 directorate name change to reflect current USTRANSCOM command structure. The Fraternalization and Professional Relationships section has been deleted in its entirety (previous paragraph 2.3). Command, supervisory, and personal responsibilities for maintaining professional relationships between Service members, between Service members and civilian employees, and between Service members and Government contractor employees are covered under separate Service instructions. References have been updated. * Indicates changed or added material.

1. References and Supporting Information. References, related publications, abbreviations, acronyms, and terms used in this instruction are listed in Attachment 1.

2. Policies:

2.1. Equal Opportunity (EO):

2.1.1. USTRANSCOM promotes an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible. Unlawful discrimination is contrary to good order and discipline and is counterproductive to combat readiness and mission accomplishment.

2.1.2. DOD policy is to conduct its affairs free from arbitrary discrimination, according to United States laws, and to provide equal opportunity and treatment for all members irrespective of race, color, sex, national origin, or religion. Disparaging terms and slurs, to include insults, printed or visual material, signs, symbols, posters, or insignia, can also constitute arbitrary discrimination. Unlawful discrimination will not be tolerated.

2.1.3. The USTRANSCOM policy on military equal opportunity is consistent with DOD policy and ensures equal opportunity in support of mission readiness for all USTRANSCOM military personnel. All personnel will support and enforce this policy.

2.1.4. Personnel are encouraged to use their supervisory chain of command when filing complaints, but have the option to air their grievances directly to their Service Element Commander or other appropriate officials without fear of reprisal.

2.2. Sexual Harassment:

2.2.1. Every individual must be free to work in an environment absent of all forms of discrimination, including sexual harassment. USTRANSCOM policy on EO is quite clear-- *sexual harassment in any form will not be tolerated in the work place.*

2.2.2. Harassment on the basis of sex is a violation of the law and can have a devastating affect upon its victim, undermine unit morale, and negatively impact mission accomplishment. Supervisors at all levels must be alert and sensitive to alleged instances of harassment and act positively to investigate either explicit or implicit sexual harassment allegations. Appropriate disciplinary and/or corrective action will be taken against persons who violate this policy.

2.2.3. Individuals who believe they are being harassed should, if possible, confront the harasser and clearly state the harassing behavior which they want stopped. Individuals are never, however, required to confront a harasser, unless of course the harasser is a subordinate. In those cases, the superior will give a direct order to cease and if the action does not cease, recommendation for disciplinary action will be referred to the next higher official. The harassment should be reported to a supervisor. If the harassment continues or the individual believes resolution through the supervisory chain of command is unresponsive, a formal or informal complaint can be filed in accordance with paragraph 4. The military member has the freedom to start the complaint process at a level higher than the harasser or supervisor, if warranted by the nature of the harassment.

3. Responsibilities:

^{*C1} **3.1.** The Commander of the United States Transportation Command (CDR USTRANSCOM) is responsible for developing and sustaining a healthy work climate within USTRANSCOM which promotes teamwork and respect among professionals who understand the value of their contributions to mission accomplishment. CDR USTRANSCOM will:

3.1.1. Ensure unit members are able to present MEO complaints without fear of reprisal. The 375th Air Wing MEO office will provide complaint-processing assistance to USTRANSCOM. The 375th Air Wing MEO will be primarily responsible for all informal and formal complaint clarifications. The Military Equal Opportunity Staff Officer (MEOSO) will provide assistance and limited fact-finding actions.

3.1.2. Ensure 375th Air Wing MEO office provides Human Relations Education (HRE) training as requested. The primary responsibility for advising members on Human Relations and Equal Opportunity and Treatment issues is the 375th Air Wing MEO office as established through the current support agreement.

3.1.3. Ensure actions are taken to eliminate unlawful discrimination and sexual harassment when a complaint is substantiated. When reprisal is alleged, refer the issue to the appropriate Inspector General (IG).

3.1.4. Provide the 375th Air Wing office with written communications regarding issues of unlawful discrimination/sexual harassment, participant demographics, and action taken when these issues are handled in the unit.

3.1.5. Ensure the 375th Air Wing MEO office is aware of Equal Opportunity and Treatment Incidents (EOTI's) within 24 hours of occurrence.

3.1.6. Ensure rating and reviewing officials evaluate compliance with directives prohibiting unlawful discrimination and sexual harassment and document serious or repeated deviations.

3.1.7. Ensure membership in those groups espousing supremacist causes or advocating unlawful discrimination will be considered when evaluating and assigning members.

3.2. The Director of Manpower and Personnel (TCJ1) has primary staff responsibility for advising on human-relations issues and the MEO Program.

^{*C1} **3.3.** CDR USTRANSCOM will appoint an officer within TCJ1 to act as MEOSO. The MEOSO has primary responsibility as an EO advisor to the complainant. The MEOSO will advise CDR USTRANSCOM on EO issues and concerns and will keep apprised of all changes in applicable guidance and provide input to USTRANSCOM policies, as appropriate. The MEOSO will review this instruction annually to ensure compliance with current DOD policies and DOD guidance and will ensure that MEO policies are prominently posted. The MEOSO must be mature, responsible, and not assigned as members of the Inspector General (IG) staff.

3.4. MEOSO will receive training from the 375th Air Wing MEO office. Training will include instruction in the following areas:

3.4.1. Conducting Unit Climate Assessments (UCA's).

3.4.2. Reporting Equal Opportunity and Treatment Incidents (EOTI's).

3.4.3. Handling initial complaint interviews.

^{*C1} **3.4.4.** Limited fact finding deemed appropriate by the CDR USTRANSCOM.

3.5. The Directors and Chiefs of Direct Reporting Elements (DREs) are responsible to promote, support, and enforce USTRANSCOM's MEO Program.

3.6. Complainants are encouraged to use their chain of command. The Service Elements' chains of command may be used by complainants for identifying and requesting correction of discriminatory practices. Service Element Commanders are responsible for ensuring that MEO policies are enforced.

4. Complaint Procedures:

^{*C1} **4.1.** Military Informal Procedures. Except for criminal misconduct, most human-relations issues can be resolved at the lowest possible level through direct dialogue between the person(s) involved. If this does not satisfy the problem or the complainant does not feel comfortable with this approach, then the issue should be worked through the supervisory chain of command. Within USTRANSCOM, this chain of command begins with the immediate supervisor and moves up through the Directors or DRE Chief, to CDR USTRANSCOM. If a military member is uncomfortable using this chain of command, an alternative is to start the process through the member's Service Element Commander.

4.1.1. Advice and assistance may be obtained from the MEOSO, the Command First Sergeant, or the senior Service representative. These individuals are advisors only and will provide information on how and where to file complaints and what kinds of behavior constitute unlawful discrimination and sexual harassment. They can address National Guard and Reserve component situations, as well as active duty issues.

4.1.2. The only mechanism for appealing the disposition of an informal complaint is to file a formal complaint.

4.2. Military Formal Procedures. If complaints are not satisfactorily resolved at lower supervisory levels or through the chain of command, complainants may present a formal complaint to the Service Element Commander who will conduct an inquiry to determine the facts and attempt to resolve the problem.

4.2.1. For sexual harassment complaints to the extent practicable, the officer in charge receiving the complaint shall, within 72 hours after the receipt of the complaint:

^{*C1} **4.2.1.1.** Forward the complaint or a detailed description of the allegation to the next superior officer in the chain of command who is authorized to convene a general court-martial (CDR USTRANSCOM).

4.2.1.2. Commence, or cause the commencement of, an investigation of the complaint.

4.2.1.3. Advise the complainant of the commencement of the investigation.

4.2.2. To the extent practicable, an officer in charge receiving a complaint shall ensure that the investigation of the complaint is completed not later than 14 days after the date on which the investigation commenced.

4.2.3. To the extent practicable, an officer in charge receiving a complaint shall:

^{*C1} **4.2.3.1.** Submit a final report on the results of the investigation, including any action taken as a result of the investigation, to the next superior authorized to convene general court-martial (CDR USTRANSCOM) within 20 days after the date on which the investigation commenced, or;

^{*C1} **4.2.3.2.** Submit a report on the progress made in completing the investigation to CDR USTRANSCOM within 20 days after the date on which the investigation commenced and every 14 days thereafter until the investigation is completed. Upon completion of the investigation, submit a final report of the results of the investigation including any action taken as a result.

4.2.4. Supervisors and commanders should provide feedback about both the status and outcome of the complaint; e.g., who is investigating, projected completion date, and whether the allegations were substantiated. When requested, the complainant should be provided a copy of the investigating officer's final report, redacted as necessary to comply with the Privacy Act of 1974 and other applicable laws and regulations. Information about specific adverse actions taken against an individual is generally not disclosed unless such information is a matter of public record (e.g., court-martial proceedings) or when otherwise required to be released by statute.

4.2.5. All reports of investigation of formal complaints are reviewed by the Chief Counsel (TCJA) for legal sufficiency. Appropriate disciplinary and/or corrective actions will be taken if unlawful discrimination or reprisal is substantiated.

4.3. All personnel are encouraged to resolve problems at the lowest possible level. At no time should anyone feel constrained from lodging a complaint if they do not feel that satisfactory resolution will take place at a lower level. All complaints will be fully and fairly investigated to ensure the equal, fair, and nondiscriminatory treatment of all personnel in USTRANSCOM.

4.4. Appeal Procedures. Both the complainant and the subject(s) of the complaint may appeal administrative findings of discrimination or no discrimination.

4.4.1. The administrative appeal process is not applicable to findings rendered pursuant to command action under the Uniform Code of Military Justice (UCMJ). When a commander initiates or has previously initiated action under the UCMJ, that action takes precedence over any

ongoing or contemplated appeal. In such circumstances, the applicable UCMJ appellate process is the exclusive method of appeal. In accordance with this instruction, commanders are not required to withhold appropriate command action while an appeal is pending.

*C1 **4.4.2.** Appeals will be made in writing to the Deputy Commander (DCDR), acting on behalf of CDR USTRANSCOM, the general courts-martial convening authority. Requests for personal presentations may be granted at the sole discretion of the DCDR. The DCDR will notify complainant and subject(s) of any actions taken on the appeal, including denial. Appeals from decisions made by the DCDR may be made in writing to the individual's Service Secretary within 30 days of notification of the decision. The appeal authority may sustain or overrule the finding or remand the matter for further fact-finding. If appeals are made to more than one Service Secretary and inconsistent decisions are obtained, the matter will be forwarded to , Office of General Counsel, for resolution.

MARY M. ORBAN
Captain, USN
Director, Manpower and Personnel

Attachment:
References and Supporting Information

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

10 U.S.C. 1561, Sexual Harassment Investigations and Reports

Assistant Secretary of Defense Memorandum for Secretaries of the Military Departments, Department of Defense (DOD) Interim Policy for Implementation of 10 U.S.C. 1561, Sexual Harassment Investigations and Reports, 25 Feb 98

DOD Directive (DODD) 1350.2, DOD Military Equal Opportunity (MEO) Program

Secretary of the Navy Instruction 5300.26B, Department of the Navy Policy on Sexual Harassment

Army Regulation 600-20, Army Command Policy, Chapter 6, Equal Opportunity Program in the Army

Marine Corps Order P5354.1B, USMC Equal opportunity Manual UCMJ (Uniform Code of Military Justice)

Air Force Instruction 36-2706, Military Equal Opportunity and Treatment Program

Air Force Instruction 36-1201, Discrimination Complaints

375th Air Wing USTRANSCOM Support Agreement, FB4407-98154-004, Indefinite

Terms

Affirmative Action. Methods used to achieve the objectives of the MEO program. Processes, activities, and systems designed to prevent, identify, and eliminate unlawful discriminatory treatment as it affects the recruitment, training, assignment, utilization, promotion, and retention of military personnel.

Complaint. An allegation of unlawful discrimination based on race, color, national origin, religion, or sex.

DOD Military Equal Opportunity (MEO) Program. The DOD-wide military program of EO that is accomplished through the efforts of the DOD components. It provides an environment in which Service members are ensured an opportunity to rise to the highest level of responsibility possible in the military profession, dependent only on merit, fitness, and capability.

Equal Opportunity. The right of all persons to participate in and benefit from programs and activities for which they are qualified. These programs and activities shall be free from social,

personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons shall be evaluated only on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion.

Formal Complaint. Allegation of unlawful discrimination or sexual harassment that is submitted in writing to the authority designated for receipt of such complaints in Service implementing regulations. For USTRANSCOM military personnel, the authority designated is the Service Element Commander or the USTRANSCOM Inspector General (TCIG).

Informal Complaint. Allegation of unlawful discrimination or sexual harassment, made either orally or in writing, that is not submitted as a formal complaint.

Religion. A personal set or institutionalized system of attitudes, moral, or ethical beliefs and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

Sexual Harassment. A form of sexual discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or
- Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

This definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive. ("Workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day (see DOD Directive 1350.2.). Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

Unlawful Discrimination. Includes discrimination on the basis of color, national origin, race, religion, or sex that is not otherwise authorized by law or regulation.